

1 THOMAS E. FRANKOVICH (State Bar No. 074414)
2 JENNIFER L. STENEBERG (State Bar No. 202985)
3 THOMAS E. FRANKOVICH,
4 *A Professional Law Corporation*
5 2806 Van Ness Avenue
6 San Francisco, CA 94109
7 Telephone: 415/674-8600
8 Facsimile: 415/674-9900

5 Attorneys for Plaintiffs
6 NICOLE MOSS
7 and DISABILITY RIGHTS
8 ENFORCEMENT, EDUCATION,
9 SERVICES: HELPING YOU
10 HELP OTHERS

11 UNITED STATES DISTRICT COURT

12 NORTHERN DISTRICT OF CALIFORNIA

13 NICOLE MOSS, an individual; and) CASE NO. C 06-6356 SBA
14 DISABILITY RIGHTS, ENFORCEMENT,)
15 EDUCATION, SERVICES: HELPING)
16 YOU HELP OTHERS, a California public)
17 benefit corporation,)
18 Plaintiffs,)
19 v.)
20 MANILA BAY CUISINE; LAND MARK)
21 TOWNE CENTER, LLC., a Delaware)
22 limited liability company; AGLOS, LLC., a)
23 Delaware limited liability company;)
24 DINKY, LLC., a Delaware limited liability)
25 company; GF LIBERTY, LLC., a Delaware)
26 limited liability company; CRIMSUN INC.,)
a California corporation,)
27 Defendants.)

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27 I, THOMAS E. FRANKOVICH, declare that I am an attorney duly licensed to practice in

28 all the courts in the state of California and if called as a witness and duly sworn, I would and

29 could competently testify to the following based upon my own personal knowledge:

30 I. On or about May 2007, the associate attorney, Julia M. Adams, who was

31 handling this case left plaintiffs' counsel's firm.

32 DECLARATION OF THOMAS E. FRANKOVICH

- 1 2. Prior to May 2007, Ms. Adams made several failed attempts to schedule a joint
- 2 site inspection with defendants.
- 3 3. On March 6, 2007, Ms. Adams sent a letter to counsel for defendants proposing
- 4 dates to conduct a joint site inspection. Attached as Exhibit A is the March 6,
- 5 2007, letter.
- 6 4. In that same letter, Ms. Adams requested verification of the modifications that
- 7 have been completed. She informed defendants that “[a]cceptable forms of
- 8 verification include photographs and/or diagrams along with a detailed
- 9 description of what has been modified.” *See* Exhibit A attached hereto.
- 10 5. On April 5, 2007, Ms. Adams wrote a letter confirming the joint site inspection
- 11 scheduled for April 26, 2007. Ms. Adams informed counsel for defendants that
- 12 she still had not received documentation from defendants regarding the
- 13 remediations. Attached as Exhibit B is the April 5, 2007, letter.
- 14 6. On April 25, 2007, Ms. Adams sent a third letter confirming the cancellation of
- 15 the joint site inspection at the request of defense counsel and proposed a tentative
- 16 date of May 10, 2007. Ms. Adams made a third request for documentation
- 17 regarding the remediations. Attached as Exhibit C is the April 25, 2007, letter.
- 18 7. On April 27, 2007, Ms. Adams sent a fourth letter confirming another scheduling
- 19 conflict with regards to the joint site inspection tentatively scheduled for May 10,
- 20 2007. Ms. Adams proposed an earlier time for the same day. Attached as Exhibit
- 21 D is the April 27, 2007, letter.
- 22 8. After Ms. Adams left the firm, the matter was re-assigned to myself for day-to-day
- 23 case management, with my paralegal, Maria V. Martinez to assist me in the
- 24 monitoring and management of this matter.
- 25 9. As Ms. Martinez stated in her Declaration filed in support of this motion, she also
- 26 had to reschedule the May 10, 2007, joint site inspection due to counsel for
- 27 defendants unavailability. *See* Martinez Decl. ¶¶4-5.

1 10. Defendants allegation that "plaintiffs took absolutely no efforts to prosecute their
2 lawsuit . . . [d]espite repeated attempts by defendants to contact plaintiffs'
3 counsel," (Decl. Grannis, 1:11) is absolutely false as evidenced by the multiple
4 letters sent by Ms. Adams as referenced above.

5 I declare under penalty of perjury that the foregoing is true and correct. Executed on this
6 24th day of January, 2008, at San Francisco, California.

7
8 By: /s/
9 Thomas E. Frankovich

EXHIBIT A

THE FRANKOVICH GROUP*
LAWYERS

2806 Van Ness Avenue - San Francisco, CA 94109-1426
Phone: 415-674-8600 • Facsimile: 415-674-9900 • TDD: 415-441-6100

March 6, 2007

Sent via facsimile to 415.421.2234

Sent via facsimile to 650.343.7979

Jessica C. Grannis
Steyer, Lowenthal, Boodrookas, Alvarez &
Smith LLP
One California St., Third Floor
San Francisco, CA 94111

Nathan Paco
Law Offices of Nathan Paco
1419 Burlingame Ave., 2nd Fl.
Burlingame, CA 94010

Re: *Nicole Moss, et al. v. Manila Bay Cuisine, et al.*
USDC N.D. of CA, Case C06-6356 SBA
Our Reference: Manila Bay Cuisine
Subject: Site inspection/barrier removal verification

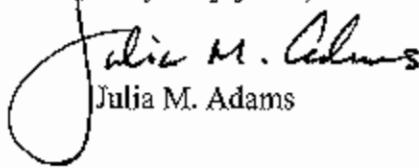
Dear Counsel:

I am writing to propose dates for counsel to conduct a site inspection of the Manila Bay Cuisine Restaurant as is required by the Court. Currently, our office can be available on April 2-5, 23, 25, or the 26th. Please let me know which of these dates, if any, that you are available. Once we have set a date for the site inspection, I will prepare and file a stipulation with the Court requesting a continuance of the site inspection deadline.

Additionally, Ms. Grannis informed me today that it was represented to her that the necessary access modifications have already been made to the restaurant. If that is in fact the case, plaintiffs will make a monetary demand to fully resolve this case immediately upon receiving verification of the modifications that have been completed. Acceptable forms of verification include photographs and/or diagrams along with a detailed description of what has been modified. If you choose to provide diagrams, please note that they do not need to be to scale.

Please feel free to contact me should you have any questions or concerns regarding anything I have raised in this letter.

Very truly yours,


Julia M. Adams

/jna

*Thomas E. Frankovich, A Professional Law Corporation
Accessible Accommodations and Parking at One Daniel Burnham Court, San Francisco CA
or at Your Home



BY APPOINTMENT ONLY AT ALL LOCATIONS

BROADCAST REPORT

TIME : 03/06/2007 18:23
NAME : THE FRANKOVICH GROUP
FAX : 4156749900
TEL : 4156748600
SER.# : 000F4J282170

PAGE(S)

02

DATE	TIME	FAX NO. / NAME	DURATION	PAGE(S)	RESULT	COMMENT
03/06 XXXXXX	18:22 XXXXXX	4212234 3437979	21 00	02 00	OK CANCEL	ECM

BUSY : BUSY/NO RESPONSE
NG : POOR LINE CONDITION
CV : COVERPAGE
PC : PC~FAX

TRANSMISSION VERIFICATION REPORT

TIME : 03/07/2007 12:09
NAME : THE FRANKOVICH GROUP
FAX : 4156749900
TEL : 4156748600
SER. # : 000F4J202170

DATE, TIME	03/07 12:08
FAX NO./NAME	16503437979
DURATION	00:08:45
PAGE(S)	02
RESULT	OK
MODE	STANDARD

THE FRANKOVICH GROUP*
LAWYERS

2806 Van Ness Avenue - San Francisco, CA 94109 - 1428
Phone: 415.674.8600

FACSIMILE TRANSMITTAL

DATE: 3/6/07
TO: Jessica Brandt
TO: Nathan Pace
TO: _____
FROM: Julie Adams

TIME: 5:30
FAX: 421.2234
FAX: 343.7779
FAX:
FAX: 415.674.9900

OF PAGES 2

(including cover)

RE: Mass v. Manila Bay
SUBJECT:

COMMENTS:

EXHIBIT B

THE FRANKOVICH GROUP*
LAWYERSManila Bay
Corresp.2806 Van Ness Avenue - San Francisco, CA 94109-1426
Phone: 415-674-8600 • Facsimile: 415-674-9900 • TDD: 415-441-6100

April 5, 2007

*Sent via facsimile to 415.421.2234**Sent via facsimile to 650.343.7979*

Jessica C. Grannis
 Steyer, Lowenthal, Boodrookas, Alvarez &
 Smith LLP
 One California St., Third Floor
 San Francisco, CA 94111

Nathan Paco
 Law Offices of Nathan Paco
 1419 Burlingame Ave., 2nd Fl.
 Burlingame, CA 94010

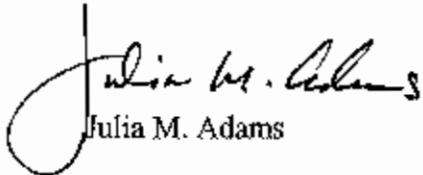
Re: *Nicole Moss, et al. v. Manila Bay Cuisine, et al.*
USDC N.D. of CA, Case C06-6356 SBA
Our Reference: Manila Bay Cuisine
Subject: Site inspection/barrier removal verification

Dear Counsel:

I am writing to confirm that the parties have agreed to conduct a site inspection of the Manila Bay Cuisine Restaurant on April 26, 2007, at 11:00 a.m. Please contact me immediately should you have any questions or concerns regarding the site inspection.

Additionally, I have not received any documentation as to the remediations that have already been completed to this point and/or are planned to be undertaken. If such documentation is provided prior to the site inspection, I will prepare a monetary demand so that we may begin discussing a full resolution of this matter by the time the site inspection occurs.

Very truly yours,



Julia M. Adams

/jma

*Thomas E. Frankovich, A Professional Law Corporation
 Accessible Accommodations and Parking at One Daniel Burnham Court, San Francisco, CA
 or at Your Home



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BROADCAST REPORT

TIME : 04/05/2007 13:27
NAME : THE FRANKOVICH GROUP
FAX : 4156749900
TEL : 4156748608
SER. # : 000F4J282170

PAGE(S)

02

DATE	TIME	FAX NO./NAME	DURATION	PAGE(S)	RESULT	COMMENT
04/05	13:26	4212234	20	02	OK	ECM
04/05	13:27	16503437979	22	02	OK	ECM

BUSY: BUSY/NO RESPONSE
NG : POOR LINE CONDITION
CV : COVERPAGE
PC : PC-FAX

EXHIBIT C

THE FRANKOVICH GROUP*
LAWYERSManila Bay
WRSP

2806 Van Ness Avenue - San Francisco, CA 94109-1426
 Phone: 415-674-8600 • Facsimile: 415-674-9900 • TDD: 415-441-6100

April 25, 2007

Sent via facsimile to 415.421.2234

Sent via facsimile to 650.343.7979

Jessica C. Grannis
 Steyer, Lowenthal, Boodrookas, Alvarez &
 Smith LLP
 One California St., Third Floor
 San Francisco, CA 94111

Nathan Paco
 Law Offices of Nathan Paco
 1419 Burlingame Ave., 2nd Fl.
 Burlingame, CA 94010

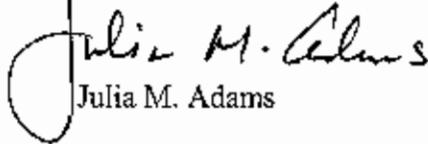
Re: *Nicole Moss, et al. v. Manila Bay Cuisine, et al.*
USDC N.D. of CA, Case C06-6356 SBA
 Our Reference: Manila Bay Cuisine
 Subject: Site inspection/barrier removal verification

Dear Counsel:

I am writing to confirm that the site inspection for April 26, 2007, at 11:00 a.m. is off calendar. The inspection is tentatively rescheduled for May 10, 2007, at 11:00 a.m. subject to Ms. Grannis's availability.

Additionally, I still have not received any documentation of the remediations that have already been completed to date or are planned to be undertaken. Now that the inspection is being postponed, it would help to speed this matter along if documentation could be provided prior to the site inspection so that a monetary demand could be made in the interim.

Very truly yours,


 Julia M. Adams

/jma

*Thomas E. Frankovich, A Professional Law Corporation
 Accessible Accommodations and Parking at One Daniel Burnham Court, San Francisco, CA
 or at Your Home



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BROADCAST REPORT

TIME : 04/25/2007 14:40
NAME : THE FRANKOVICH GROUP
FAX : 4156749900
TEL : 415674B600
SER. #: 000F4J282170

PAGE(S)

02

DATE	TIME	FAX NO. /NAME	DURATION	PAGE(S)	RESULT	COMMENT
04/25	14:38	4212234	20	02	OK	ECM
04/25	14:39	16503437979	22	02	OK	ECM

BUSY: BUSY/NO RESPONSE
NG : POOR LINE CONDITION
CV : COVERPAGE
PC : PC~FAX

EXHIBIT D

THE FRANKOVICH GROUP*
LAWYERSManila Bay
corresp

2806 Van Ness Avenue - San Francisco, CA 94109-1426
 Phone: 415-674-8600 • Facsimile: 415-674-9900 • TDD: 415-441-6100

April 27, 2007

Sent via facsimile to 415.421.2234

Jessica C. Grannis
 Steyer, Lowenthal, Boodrookas, Alvarez &
 Smith LLP
 One California St., Third Floor
 San Francisco, CA 94111

Sent via facsimile to 650.343.7979

Nathan Paco
 Law Offices of Nathan Paco
 1419 Burlingame Ave., 2nd Fl.
 Burlingame, CA 94010

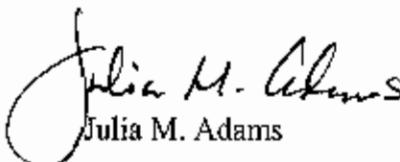
Re: *Nicole Moss, et al. v. Manila Bay Cuisine, et al.*
 USDC N.D. of CA, Case C06-6356 SBA
 Our Reference: Manila Bay Cuisine
 Subject: Site inspection/barrier removal verification

Dear Counsel:

Since my last correspondence, we have developed a scheduling conflict for the proposed site inspection for May 10, 2007, at 11:00 a.m. that is tentatively scheduled. We are still available that day, however, the inspection would have to be moved to 9:00 a.m.

Please contact me at your earliest convenience to discuss whether the change in time is acceptable. If not, we can review additional dates at that time.

Very truly yours,


 Julia M. Adams

/jma

*Thomas E. Frankovich, A Professional Law Corporation
 Accessible Accommodations and Parking at One Daniel Burnham Court, San Francisco, CA
 or at Your Home



BY APPOINTMENT ONLY AT ALL LOCATIONS

TRANSMISSION VERIFICATION REPORT

TIME : 04/27/2007 16:37
NAME : THE FRANKOVICH GROUP
FAX : 4156749900
TEL : 4156748600
SER. #: 000F4J282170

DATE, TIME	04/27 16:37
FAK NO./NAME	16503437979
DURATION	00:00:18
PAGE(S)	82
RESULT	OK
MODE	STANDARD ECM

THE FRANKOVICH GROUP*
LAWYERS

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FACSIMILE TRANSMITTAL

DATE: 4/27/07
TO: Jessica Grannis
TO: Notman Poco
TO: _____
FROM: Julie Adams

TIME: 4:40
FAX: 415.223-34
FAX: 343.7979
FAX: _____
FAX: 415.674.9900

OF PAGES 2

(including cover)

RE: Moss v. Manila Bay
SUBJECT: _____

COMMENTS: _____

BROADCAST REPORT

TIME : 04/27/2007 16:43
NAME : THE FRANKOVICH GROUP
FAX : 4156749900
TEL : 4156748600
SER. # : 000F4J2B2170

PAGE(S)

02

DATE	TIME	FAX NO. /NAME	DURATION	PAGE(S)	RESULT	COMMENT
04/27	16:35	4212234	17 00	02 00	OK BUSY	
04/27	16:43	3437979				ECM

BUSY: BUSY/NO RESPONSE
NG : POOR LINE CONDITION
CV : COVERPAGE
PC : PC-FAX